

REMARKS

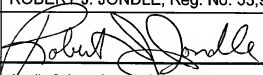
Applicant has amended claim 15. This amendment has been made to place the claim in better form for examination and to further obviate the 35 U.S.C. §112 rejections as set forth in the Office Action dated May 1, 2007. It is believed that the amendment does not constitute new matter. It is submitted that this amendment obviates the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has rejected claim 15 under 35 U.S.C. §112 as failing to comply with the enablement requirement. Specifically the claim is broadly drawn to any cytoplasmic male sterile plant made by suppressing the expressing of an MSH1-homologous gene in the plant. Applicant notes that the Examiner may have inadvertently referred to Example 4 in the rejection and perhaps meant Example 3, since there is no Example 4 in the Specification. Applicant has amended claim 15. Applicant draws the Examiner's attention to paragraph [0018] of the Specification where in one embodiment of the invention "plant" is selected from the group consisting of maize, wheat, rice, sorghum, tomato or potato...". In addition, the Applicant draws the Examiner's attention to paragraph [0093] at the top of page 35 of the Specification, where numerous plants (such as soybean and millet) are listed as plants that can be transformed. In addition, Figure 3 identifies soybean, tomato, rice and common bean MSH1 consensus sequences. In addition, in regard to Sandhu et al (2007, PNAS USA 104:1766-1770), there appears to be a misunderstanding about Table 1 and crossing. The Applicant states that there is no need for any crossing and that the investigator introduces an RNAi construction by transformation, regenerates the plants, and waits two generations of selfing until male sterility emerges. The additional crossing data was added to the Sandhu paper only for confirmation that the male sterility described in the Sandhu paper is truly cytoplasmic and that it is caused by the transgene. Therefore, there is no need for a crossing step. Applicant submits that undue experimentation would not be required by one skilled in the art to develop and evaluate a cytoplasmic male sterile plant made by suppressing the expression of an MSH1-homologous gene in the plant

because suppression of gene expression is well known to those of ordinary skill in the art. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 15 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has amended claim 15. Applicant draws the Examiner's attention to paragraph [0018] of the Specification where in one embodiment of the invention "plant" is selected from the group consisting of maize, wheat, rice, sorghum, tomato or potato...". In addition, the Applicant draws the Examiner's attention to paragraph [0093] at the top of page 35 of the Specification, where numerous plants (such as soybean and millet) are listed as plants that can be transformed. In addition, Figure 3 identifies soybean, tomato, rice and common bean MSH1 consensus sequences. Withdrawal of this rejection is respectfully requested.

In view of the above amendment and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §112. Reconsideration of this application and an early notice of allowance are respectfully requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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